

REMARKS/DISCUSSION OF ISSUES

Claims 1-4, 6-14 and 16-22 are pending in the application.

Reexamination and reconsideration are respectfully requested in view of the following Remarks.

35 U.S.C. § 103

The Office Action rejects claims 1-4, 6-14, 16-18 and 21-22 under 35 U.S.C. § 103 over Strolle et al. U.S. Patent Application Publication 2004/0057535 ("Strolle"); and claims 19-20 under 35 U.S.C. § 103 over Strolle in view of Choi et al. U.S. Patent 7,430,251 ("Choi").

Applicant respectfully traverses all of these rejections for at least the following reasons.

At the outset, Applicant relies on at least the following standards with regard to proper rejections under 35 U.S.C. § 103(a). First, the Examiner must establish the level of ordinary skill in the art of the invention. M.P.E.P. §§ 2141(II)(C) and 2141.03. Also, a rejection on obviousness grounds under 35 U.S.C. § 103 cannot be sustained by mere conclusory statements: instead there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. In re Kahn, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006). See also KSR International Co. v. Teleflex Inc., 550 U.S. 398, 82 USPQ2d 1385, 1396 (2007) (quoting Federal Circuit statement with approval). Furthermore, there must be a reasonable expectation of success. "*The mere fact that references can be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art.*" MPEP § 2143.01(III) (citing KSR International Co. v. Teleflex Inc., 550 U.S. 398, 82 USPQ2d 1385, 1396 (2007)). Finally, the prior art reference (or references when combined) must disclose all of the claim limitations. "*All words in a claim must be considered in judging the patentability of that claim against the prior art.*" MPEP § 2143.03 (citing In re Wilson, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970)).

Claim 1

Among other things, the system of claim 1 includes a processing unit that removes a trailing portion from each encoded data packet, including removing encoded digital information bytes when the encoded packet includes robust data from a robust data input.

. The Office Action fairly admits that Strolle does not disclose this combination of features.

However, the Office Action states that it would have been obvious to one of ordinary skill in the art *“to have utilized the method taught in post processing to remove the trailing portion of the input data (normal/robust data) (sic) in order to recover data with minimal errors.”*

Applicant respectfully disagrees and respectfully traverses the proposed modification of Strolle.

At the outset, the Office Action fails to explain how or why it is thought that one skilled in the art would believe that *“removing digital information bytes”* would *“recover data with minimal errors.”* Applicant respectfully submits that this does not make any sense.

Further, Strolle’s virtual decoder 26 does not receive encoded data packets where the trailing portion even includes any encoded digital information bytes that could be removed by it. Strolle teaches an arrangement wherein robust and normal data packets are multiplexed by transport multiplexer 20 and the multiplexed packets are all Reed-Solomon encoded by virtual encoder 22 which is an ATSC Reed-Solomon encoder (see, e.g., paragraph [0087]). Thus, the trailing portion of all packets received by virtual decoder 26 (including the robust packets) comprises parity bytes (see, e.g., paragraph [0016]), not encoded digital information bytes. So the Reed-Solomon decoder in Strolle’s virtual decoder 26 would not receive any robust packets where a trailing portion includes encoded digital information bytes.

Applicant respectfully submits that one of ordinary skill in the art would not modify Strolle’s virtual decoder 26 to remove encoded digital information bytes from a

trailing portion of an encoded robust packet, since virtual decoder 26 does not receive any such encoded digital information bytes in the trailing portion of encoded robust packets.

In view of this, Applicant respectfully traverses the proposed modification of Strolle's device as lacking any articulated reasoning with some rational underpinning, and furthermore, as producing an inoperative device that could not achieve Strolle's purpose (see, e.g., M.P.E.P. §§ 2143.01(V) and 2143.02).

Therefore, for at least these reasons, Applicant respectfully submits that claim 1 is patentable over Strolle.

Accordingly, Applicant respectfully requests that the rejection of claim 1 be withdrawn and that claim 1 be allowed.

Claims 2-4, 6-10 and 21

Claims 2-4, 6-10 and 21 all depend from claim 1 and are deemed patentable over Strolle for at least the reasons set forth above with respect to claim 1, and for the following additional reasons.

Claim 21

Among other things, the system of claim 21 includes a processing unit that removes a trailing portion from each encoded data packet, including removing encoded digital video data when the encoded packet includes robust data from a robust data input.

The Office Action makes no mention of this feature, and specifically fails to explain how or why anyone of ordinary skill in the art at the time of the invention would have or could have modified Strolle's system to remove encoded digital video data from Strolle's robust data packets.

Accordingly, for at least these reasons, Applicant respectfully requests that the rejections of claims 2-4, 6-10 and 21 be withdrawn and that claims 2-4, 6-10 and 21 be allowed.

Claim 11

Among other things, in the method of claim 11, removing a trailing portion from each encoded packet includes removing parity bytes when an encoded packet

includes normal data supplied from the normal data input, and includes removing digital information bytes when an encoded packet includes robust data from the robust data input.

As explained above with respect to claim 1, Applicant respectfully submits that it would not have been obvious to one of ordinary skill in the art at the time of the invention to modify Strolle's device to include this combination of features.

Therefore, for at least these reasons, Applicant respectfully submits that claim 11 is patentable over Strolle.

Accordingly, Applicant respectfully requests that the rejection of claim 11 be withdrawn and that claim 11 be allowed.

Claims 12-14, 16-18 and 22

Claims 12-14, 16-18 and 22 all depend from claim 11 and are deemed patentable for at least the reasons set forth above with respect to claim 11, and for the following additional reasons.

Claim 22

Among other things, the method of claim 22 includes removes a trailing portion from each encoded data packet, including removing encoded digital video data when the encoded packet includes robust data from a robust data input.

The Office Action makes no mention of this feature, and specifically fails to explain how or why anyone of ordinary skill in the art at the time of the invention would have or could have modified Strolle's method to remove encoded digital video data from Strolle's robust data packets.

Accordingly, for at least these reasons, Applicant respectfully requests that the rejections of claims 12-14, 16-18 and 22 be withdrawn and that claims 12-14, 16-18 and 22 be allowed.

Claim 19

Among other things, the system of claim 19 includes a processing unit that removes a trailing portion from each encoded data packet, wherein removing a trailing portion from each encoded packet includes removing parity bytes when an encoded packet includes normal data supplied from the normal data input, and

includes removing digital information bytes when an encoded packet includes robust data from the robust data input.

As explained above with respect to claim 1, Applicant respectfully submits that it would not have been obvious to one of ordinary skill in the art at the time of the invention to modify Strolle's system to include this combination of features. Meanwhile, Choi does not remedy these deficiencies of Strolle.

Therefore, for at least these reasons, Applicant respectfully submits that claim 19 is patentable over the cited art.

Accordingly, Applicant respectfully requests that the rejection of claim 19 be withdrawn and that claim 19 be allowed.

Claim 20

Claim 20 depends from claim 19 and is deemed patentable for at least the reasons set forth above with respect to claim 19. Accordingly, for at least these reasons, Applicant respectfully requests that the rejection of claim 20 be withdrawn and that claim 20 be allowed.

Applicant respectfully submits that all of the pending claims 1-4, 6-14 and 16-22 are patentable at this time, and therefore believes that a Notice of Allowance is appropriate. However, in the event that the USPTO should issue a new Office Action instead, Applicant respectfully submits that any such Office Action should be **non-Final**, as the pending rejections are improper as failing to comply with the requirements of 35 U.S.C. § 103 for the reasons set forth above.

CONCLUSION

In view of the foregoing explanations, Applicant respectfully requests that the Examiner reconsider and reexamine the present application, allow claims 1-4, 6-14 and 16-22, and pass the application to issue. In the event that there are any outstanding matters remaining to be resolved in the present application, the Examiner is invited to contact Kenneth D. Springer (Reg. No. 39,843) at (571)

283.0720 to discuss these matters.

Respectfully submitted,

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